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HOUSE BILL 3177 By  
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SENATE BILL 3173  
By McNally

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29 and Title 9, Chapter 4, relative to the "Tennessee Tobacco Settlement Trust Fund Act".

WHEREAS, in 1998 the attorneys general of forty-six (46) states, including Tennessee, negotiated a historic settlement with the major tobacco product manufacturers; and

WHEREAS, this master settlement agreement was approved by the Davidson County Chancery Court in December 1998, and will allow Tennessee to receive substantial funds over a twenty-five (25) year period; and

WHEREAS, scientific and medical authorities agree that the use of tobacco products has been a major cause of heart and lung disease and even death in thousands of Tennesseans over a long period of time; and

WHEREAS, the public's increasing awareness of the health effects of tobacco use will likely result in a decline in tobacco use in the future in this country; and

WHEREAS, a decline in the purchase of tobacco products will likely result in decreased demand for tobacco grown by Tennessee farmers; and

WHEREAS, a substantial number of Tennessee citizens have for years made their living by growing tobacco on family farms; and

WHEREAS, the monies received by Tennessee under the master settlement agreement should logically be used primarily to reduce the number of Tennesseans who will suffer health problems and even death as a result of tobacco use and to assist tobacco growers' transition to other crops and other economic bases; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 9, Chapter 4, is amended by adding Sections 2 through 10 of this act as a new, appropriately designated part.

SECTION 2. This part shall be known and may be cited as the "Tennessee Tobacco Settlement Trust Fund Act".

SECTION 3. There is hereby established within the state treasury a special trust fund to be known as the "Tennessee Tobacco Settlement Trust Fund".

SECTION 4. Funds in the trust fund established pursuant to this act shall be invested by the state treasurer pursuant to policy guidelines, established by resolution of the funding board established by § 9-9-101, within the laws, guidelines, and policies which govern investments of the Tennessee consolidated retirement system.

SECTION 5. All funds received by the state of Tennessee under the attorneys general master tobacco settlement agreement shall be deposited in the trust fund. These payments shall constitute the principal of the trust and shall not be expended or appropriated for any purpose nor shall any portion of such principal be proposed or recommended by the governor for expenditure in the budget document, appropriations bill, or otherwise.

SECTION 6. Reasonable and necessary expenses of administration of the trust fund may be paid from interest or income received on the principal of the trust fund.

SECTION 7. (a) In each fiscal year, seventy-five percent (75%) of the interest or income from the investment of the trust fund's principal shall be utilized for public education and information programs designed to discourage the use of tobacco products, enforcement

programs to prevent the purchase of tobacco products by minors, voluntary smoking cessation programs, medical and scientific research related to tobacco use, and school health programs.

(b) In each fiscal year, twenty-five percent (25%) of the interest or income from the investment of the trust fund's principal shall be utilized for the promotion of economic growth and development in tobacco-dependent communities to assist such communities in reducing their dependency on tobacco and tobacco-related business, community incubation programs for tobacco-dependent communities, and studies on the potential for alternative cash crops and any other matters that affect tobacco growers.

SECTION 8. (a) To assist the general assembly in maximizing the benefits realized from the expenditure of the interest or income from the trust fund, the following boards are hereby created and constituted as follows:

(1) The Tobacco Use Reduction and Health Care Board shall be composed of seventeen (17) members, as follows:

(A) Three (3) members of the house of representatives, designated by the speaker of the house, one (1) from each grand division;

(B) Three (3) members of the senate, designated by the speaker of the senate, one (1) from each grand division;

(C) The commissioner of health or the commissioner's designee;

(D) The commissioner of education or the commissioner's designee;

(E) One (1) physician designated by the Tennessee Medical Association;

(F) One (1) physician designated by the Tennessee Academy of Family Physicians;

(G) One (1) physician designated by the Tennessee Academy of Pediatrics;

(H) One (1) school nurse designated by the Tennessee School Nurses Association;

(I) One (1) hospital representative designated by the Tennessee Hospital Association;

(J) One (1) person designated by the American Cancer Society;

(K) One (1) person designated by the American Heart Association;

(L) One (1) person designated by the American Lung Association;  
and

(M) One (1) person with expertise in public health appointed by the governor.

(2) The Tobacco Community Revitalization Board shall be composed of seventeen (17) members, as follows:

(A) Three (3) members of the house of representatives, designated by the speaker of the house, one (1) from each grand division;

(B) Three (3) members of the senate, designated by the speaker of the senate, one (1) from each grand division;

(C) The commissioner of agriculture or the commissioner's designee;

(D) The commissioner of economic and community development or the commissioner's designee;

(E) Three (3) persons designated by the Tennessee Farm Bureau;

(F) One (1) person designated by the dean of the University of Tennessee College of Agriculture;

(G) Two (2) burley tobacco growers appointed by the governor;

(H) Two (2) flue-cured tobacco growers appointed by the governor; and

(I) One (1) tobacco quota holder appointed by the governor.

(b) The term of each board member shall be four (4) years. Any vacancy shall be filled for the remainder of the unexpired term. Each board member may be re-appointed to subsequent terms.

(c) All members of each board shall serve without compensation.

(d) The department of health shall provide administrative support to the Tobacco Use Reduction and Health Care Board. The department of agriculture shall provide administrative support to the Tobacco Community Revitalization Board.

(e) It is the duty and function of the Tobacco Use Reduction and Health Care Board to determine annually the appropriate uses of seventy-five percent (75%) of the interest or income from the investment of the trust fund's principal and to cause the distribution of those monies for the purposes set forth in Section 7 of this act. The monies may be distributed to state or local government entities or to private nonprofit entities engaged in activities designed to achieve the purposes described in Section 7 of this act.

(f) It is the duty and function of the Tobacco Community Revitalization Board to determine annually the appropriate uses of twenty-five percent (25%) of the interest or income from the investment of the trust fund's principal and to cause the distribution of those monies for the purposes set forth in Section 7 of this act. The monies may be distributed to state or local government entities or to private nonprofit entities engaged in activities designed to achieve the purposes described in Section 7 of this act.

SECTION 9. During the regular annual session of the general assembly in 2005, the general assembly shall conduct a comprehensive review of the programs which have been funded with the interest or income from the trust fund and shall consider whether any changes

are needed in the programs for which these monies are being spent or in the mechanism for determining which programs should be funded. The general assembly shall also consider at that time whether any portion of the principal received annually pursuant to the master settlement agreement in future years should be available for direct appropriation by the general assembly.

SECTION 10. The state treasurer is authorized to promulgate rules and regulations necessary to effectuate the provisions of this act.

SECTION 11. Tennessee Code Annotated, Section 4-29-223(a), is amended by adding the following language as new, appropriately designated items:

(\_) Tobacco use reduction and health care board, created by Section 8 of this act;

(\_) Tobacco community revitalization board, created by Section 8 of this act;

SECTION 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.